

ORIGINAL

U.S. DISTRICT COURT

DISTRICT OF VERMONT

-----x  
TIMOTHY KEENE,  
  
                                Plaintiff,  
                                v.  
DANIEL SCHNEIDER and  
JARED HATCH,  
                                Defendants.  
-----x

Docket No.:  
2:07-CV-00079 WKS

DEPOSITION  
--of--  
TIMOTHY KEENE

Taken on behalf of the Defendants on Wednesday,  
July 16, 2008, at the law offices of Rubin, Kidney,  
Myer & DeWolfe, 237 N. Main Street, Barre, Vermont.

APPEARANCES

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(802) 229-9873 Green Mountain Reporters (802) 288-9578  
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1 correct?

2 A Yes.

3 Q And you said you did?

4 A I said yeah, I believe I did.

5 Q And why did you think he was there?

6 A Because Bonnie said she was going to call them  
7 if I didn't leave.

8 Q So, you are talking about Bonnie Breer?

9 A Yes.

10 Q And you had some kind of incident with her  
11 that night?

12 A Yes.

13 Q Do you recall what time that was?

14 A It was about 11 o'clock around.

15 Q This occurred at her house?

16 A The end of the confrontation did, yes.

17 Q And you just said that she told you at that  
18 point that she was going to call the police?

19 A If I didn't leave, and I did leave after that.

20 Q You were in your vehicle?

21 A Yes.

22 Q And you had told her son, I believe, that you  
23 weren't going to leave the residence until she came out  
24 to talk to you?

25 A I may have said something to that effect.

1 A Yes.

2 Q Private road to get to your house?

3 A Yes.

4 Q How long is it about?

5 A Maybe 2000 yards.

6 Q How close is your nearest neighbor?

7 A Maybe 1000 yards away.

8 Q I think you can see this on the video, but  
9 it's pretty dark, there weren't any lights on, at least  
10 that night outside of your house, do you recall?

11 A Lights from where, the next house?

12 Q Well, do you have lights -- no, from your  
13 house? Do you have lighting outside the house? Well,  
14 let me just ask it this way, do you have lighting  
15 outside of your house?

16 A Yes.

17 Q Do you know if the lighting was on at the  
18 time?

19 A I don't believe it was.

20 Q Okay. And it was, like we said, late, so it  
21 was actually kind of dark in your house, as well,  
22 correct?

23 A Yes.

24 Q Now, when Trooper Schneider got there, he  
25 asked you if you knew why he was there; is that

1 A Yes.

2 Q Okay. So, when Trooper Schneider first came  
3 in, you answered his questions about why he was there,  
4 correct?

5 A Yes.

6 Q And you answered the questions he had for you  
7 about Ms. Breer?

8 A I believe I answered all the questions he  
9 asked me.

10 Q Okay. Well, there came a time when he started  
11 to ask you about how much you had been drinking; isn't  
12 that correct?

13 A Yes.

14 Q And you didn't answer those questions?

15 A Right.

16 Q Okay. At least at first you didn't, you said  
17 you didn't remember how much you had drank?

18 A Right.

19 Q You asked him why he wanted to know?

20 A Exactly.

21 Q And you told him you didn't think it mattered?

22 A Correct.

23 Q And you told him you didn't count them?

24 A Correct.

25 Q And then eventually you told him that you had

1 maybe three beers?

2 A Correct.

3 Q And that those had been all been since you had  
4 been home?

5 A Correct.

6 Q But you've already told me today that you had,  
7 in fact, been drinking earlier in the evening before  
8 you got home?

9 A Correct.

10 Q And you told him three. I think you told me  
11 maybe, I don't recall if I asked you how many beers did  
12 you have once you got home?

13 A I was telling the officer how many I had since  
14 I got home.

15 Q Okay. And what did you tell him, do you  
16 remember?

17 A I think I told him three or four.

18 Q Okay.

19 A At the house.

20 Q Sitting here today, how many do you think it  
21 was?

22 A At least four.

23 Q So then, well, you know what I'm going to do,  
24 I'm going to play the tape and ask you to listen to it.  
25 I'm going to play a little bit of it and then stop it,

1 A Okay.

2 (Tape plays.)

3 Q Okay. I'm just going to stand here if no one  
4 minds. So, a couple of things happened in that piece  
5 we just played. Number one, he asked to you to do  
6 field sobriety tests, correct?

7 A Yes.

8 Q And you refused to do that?

9 A Yes.

10 Q Several times?

11 A Yes.

12 Q At some point you started to walk away from  
13 him?

14 A Yes.

15 Q And he told you not to leave?

16 A Yes. I believe I had to go to the bathroom.

17 Q Okay. At least at that point did you say you  
18 had to go to the bathroom?

19 A Yes. It's right on the video.

20 Q You said it after you had walked, started to  
21 walk away?

22 A No. I said it before.

23 Q In any case, you were trying to go into a  
24 different part of the room, or a different part of the  
25 house?

1           A     Yes.

2           Q     There is something in there about putting your  
3 hands in your pockets?

4           A     I don't remember doing that, but I heard him  
5 tell me to take my hands out of my pockets.

6           Q     Then there was a piece there where you were  
7 talking about the fact that he was on your property,  
8 and basically saying that he was there illegally, do  
9 you remember that?

10          A     Yes.

11          Q     So, you were kind of arguing with him about  
12 whether or not he could be there?

13          A     Yes.

14          Q     Now, during, when I play this next part, I'm  
15 going to ask you, if you can, to try to count the  
16 number of times that after Trooper Schneider asks you  
17 either -- sorry, let me start over.

18               Trooper Schneider is going to do two things a  
19 number of times, tell you that you are under arrest and  
20 ask you to turn around so that he can handcuff you.  
21 Okay?

22          A     Yes.

23          Q     I want you to, when I play this, try to count  
24 the number of times that you refuse to do that. Okay?

25          A     Okay.

1 (Tape plays.)

2 Q Were you able to count?

3 A I got seven. What'd you get?

4 Q Well, I guess it depends on how many, I count  
5 six explicit no's, and you just said you counted seven?

6 A Yes.

7 Q So, six or seven. There was also a number of  
8 times where he told you to do that, and you didn't  
9 explicitly say no, but you didn't do it, instead you  
10 asked him some other question; is that right?

11 A Yes.

12 Q Well, at one point he asked you to do it, and  
13 you said, "I have to go to the bathroom"?

14 A Right.

15 Q So, you didn't do it that time?

16 A No, I don't believe so, no.

17 Q Well, you never agreed to put your hands  
18 behind your back?

19 A Right.

20 Q So, at one point he told you to do that, and  
21 you asked him why?

22 A Yes.

23 Q And he explained that he believed you had been  
24 driving under the influence?

25 A Yes.



1 Q And you basically argued with him about  
2 whether or not you had?

3 A Yes.

4 Q At another point he explained that he was  
5 going to spray you with O.C.?

6 A Yes.

7 Q Or he told you he was going to do that?

8 A Yes.

9 Q You asked him what it was?

10 A Yes.

11 Q And he explained that to you?

12 A Yes.

13 Q But you still didn't do what he asked you to  
14 do?

15 A Correct.

16 Q So, I don't know if you heard it when I  
17 stopped the tape, that's when he sprayed, did you hear  
18 that?

19 A Yes.

20 Q Okay. Do you remember after you were sprayed,  
21 do you remember being told to put your hands behind  
22 your back?

23 A Yes.

24 Q And do you remember what you said?

25 A No.

1 MR. GROFF: That's all I have.

2 MS. VINCENT: I just have a couple of  
3 questions to clarify.

4 CROSS-EXAMINATION BY MS. VINCENT:

5 Q You were at Earl Curtis' that night?

6 A Yes.

7 Q Had you driven to Earl Curtis' house?

8 A No.

9 Q Who drove you there?

10 A Bonnie.

11 Q And did you drive from Earl Curtis' home to  
12 Bonnie's home?

13 A No.

14 Q Okay. Where did you go?

15 A Earl drove me to my home.

16 Q Okay. And then you drove from your home to  
17 Bonnie's?

18 A Yes.

19 Q That's a matter of how many miles?

20 A About a mile.

21 Q And you pled either no contest or not guilty,  
22 but you pled to a resisting arrest charge?

23 A Right.

24 Q Did that ever actually make sense to you?

25 A No, it didn't.

1 Q Why didn't it make sense to you?

2 A Because I felt that I wasn't guilty of DWI.

3 Q Okay. So, the DUI charge, what happened with  
4 the DUI charge?

5 A It was dropped for, I guess it was just  
6 dropped. You know why, but I'm not sure why.

7 Q But it was a dismissed charge?

8 A Right. Yeah, it was dismissed.

9 Q Okay. When the officer was questioning you in  
10 your home about your drinking, you did repeat several  
11 times, "Why does it matter"?

12 A Exactly.

13 Q Why did you say that?

14 A Because I drank at home, not while I was  
15 driving.

16 Q Okay, and how long were you home between the  
17 time you left Bonnie's house and the time Trooper  
18 Schneider appeared?

19 A It was, I believe, like almost a couple of  
20 hours.

21 Q Okay. And that's, and you had been drinking  
22 while you were home?

23 A Yes.

24 Q Okay. So, when the officer asked you to  
25 perform field sobriety exercises, were you surprised?